

S. HRG. 109-555

**RENEWING THE TEMPORARY PROVISIONS OF THE  
VOTING RIGHTS ACT: AN INTRODUCTION TO  
THE EVIDENCE**

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**HEARING  
BEFORE THE  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE  
ONE HUNDRED NINTH CONGRESS**

**SECOND SESSION**

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**APRIL 27, 2006**

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## **RENEWING THE TEMPORARY PROVISIONS OF THE VOTING RIGHTS ACT: AN INTRODUC- TION TO THE EVIDENCE**

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**THURSDAY, APRIL 27, 2006**

**U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
Washington, DC.**

The Committee met, pursuant to notice, at 2:40 p.m., in room SD-226, Dirksen Senate Office Building, Hon. Arlen Specter, Chairman of the Committee, presiding.

Present: Senators Specter, Cornyn, Leahy, Kennedy and Feingold.

### **OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA**

Chairman SPECTER. Good afternoon, ladies and gentlemen. I customarily say the Judiciary Committee will proceed, but I had better on this occasion say the Senate Judiciary Committee will proceed because we have both the Senate and the House Judiciary Committee present. We might have invited Chairman Sensenbrenner and Ranking Member Conyers here to sit on the dais, but we will proceed in the customary way.

The Honorable F. James Sensenbrenner, Jr., a Member of Congress from the 5th District of Wisconsin, became a Member of Congress in November of 1978 after serving 10 years in the Wisconsin State Legislature. He became Chairman of the House Committee on the Judiciary beginning in the 107th Congress. Previously, he had served as Chairman of the House Committee on Science. He is a graduate of Stanford in 1965 and has a law degree from the University of Wisconsin in 1968.

The Honorable John Conyers, Jr., is a Democratic Member from Detroit, Michigan, representing the 4th Congressional District. He entered the House of Representatives in 1964 and is now the second most senior member serving in the House. After serving as Chairman of the House Committee on Governmental Operations from 1989 to 1994, he was elected to lead the Democratic side of the House Committee on the Judiciary. He has a bachelor of arts degree in 1957 and his law degree in 1958 from Wayne State University.

Welcome, Mr. Chairman and Mr. Ranking Member. It is an honor for us to have you here. We have talked preliminarily about the procedures which we will follow in moving ahead for the renewal of the Voting Rights Act, a matter of great importance.

There is nothing more important than the right of citizens to vote, the backbone and basis of our constitutional democracy.

We are also joined by Congressman John Lewis, from Georgia, and Congressman Mel Watt, from North Carolina.

Senator Leahy.

**STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR  
FROM THE STATE OF VERMONT**

Senator LEAHY. Mr. Chairman, I join with you in the welcome to Chairman Sensenbrenner, Congressman Conyers and the others. It is interesting. Just in chatting in the back room, I was saying even in my State, which probably has the smallest number of minorities of any State in the country, this is a matter of great interest among church groups, civic groups, business groups, just as a matter of fairness, something that we pride ourselves on in Vermont. So I appreciate the work that the four of you have done, as has been mentioned, but also other, of course, other Representatives, Representative Nadler and Chabot and others.

It is hard to even think there is a debate on such basic rights—the right to vote and the right to have your vote count, which is just as important as the right to vote, of course. The legitimacy of our Government is dependent on all Americans having that right.

We are all reminded of the historic struggle for civil rights, led by such American heroes as Dr. Martin Luther King, Jr., and Coretta Scott King. We have been reminded again, if we needed the reminder, in the last few months of the courageous act of Rosa Parks, who said she was not going to be treated as a second-class citizen.

I remember as a young lawyer March 7, 1965, the pictures in Selma, Alabama, of Congressman John Lewis, not a Congressman then, and his fellow civil rights marchers as they fought for their right to vote. They were attacked by State troopers on the Edmund Pettus Bridge—Bloody Sunday, the photographs, the television. It was something that galvanized the Nation. In my State of Vermont, where we just couldn't conceive of such things happening, unlike where John Lewis and so many others saw this as a daily thing, the outrage was palpable.

A few days after that, President Johnson outlined the proposed Voting Rights Act of 1965. Within months, Congress passed it. The pervasive discriminatory tactics that led to it were deeply rooted. This fight dated back almost 100 years to the ratification of the 15th Amendment in 1870, the last of the post-Civil War Reconstruction amendments. It wasn't until 1965, 95 years later, that we were actually making that a reality.

We have authorized it, we have reauthorized it. In 1982, we had a bipartisan process. Mr. Chairman, you and I were there from this Committee, and, of course, Senator Kennedy, who has been the leader for so many years on this, and Senator Biden, Senator Hatch, Senator Grassley, and the late Senator Strom Thurmond. We passed it in both Houses.

I have a lot more and I will just put it in the record, Mr. Chairman, but the point being at a time of increasing partisanship and at a time sometimes when both bodies find themselves at loggerheads, this is one thing that ought to unite all of us—Republicans,

Democrats, members of the House, members of the Senate. We would truly be doing this Nation's business. Let's pass it.

[The prepared statement of Senator Leahy appears as a submission for the record.]

Chairman SPECTER. Senator Kennedy, would you care to make an opening statement?

**STATEMENT OF HON. EDWARD M. KENNEDY, A U.S. SENATOR  
FROM THE STATE OF MASSACHUSETTS**

Senator KENNEDY. Thank you, Mr. Chairman. I first of all want to thank you and Senator Leahy for having this hearing today, and welcoming our colleagues and friends from the House. They have been diligent in reviewing this legislation a great deal. They have brought together experts from all parts of the country with varying views. I want to commend you and Senator Leahy for inviting them to share this extraordinary collection of material that can be of such value to the Senate in its consideration of this very important issue and question.

I am reminded, when I see both Representative Sensenbrenner and Representative Conyers, that both of them were here in 1982 when we reauthorized it. At that time, if you remember, Mr. Chairman, actually the administration did not favor the extension of it at that time. It was a matter that was contentious and took a good deal of time. The House led the way in that struggle and battle, and the Senate passed it with over 70 votes ultimately. Dr. King called the Voting Rights Act the No. 1 civil right, the right to vote and have that vote fully and fairly counted.

Mr. Chairman, I had the opportunity to participate in the Act's original passage and each of the later renewals. The year after its passage, I had the privilege of addressing the Southern Christian Leadership Conference in Mississippi, at the invitation of Dr. King. When he and Coretta King met me at the airport, we drove back along a road littered with hate leaflets and two-inch nails, intended, no doubt, as a threat to the Kings.

That trip was significant not for these attempts at intimidation, but for the enthusiasm that every one of the SCLC delegates showed for the right to vote newly protected by the Voting Rights Act and to participate fully in our American democracy.

There are no words to describe the importance of the step we took in passing the Act to see that America finally lived up to its ideals of democracy and justice for all. And as we considering reauthorizing key portions of the law, we must remember how far we have come and we must never, never go back to the dark days. Section 5 serves as an important protection against backsliding by jurisdictions with a history of particularly severe discrimination in voting.

So, Mr. Chairman, I look forward to the presentations of our friends today and to the hearings and to the passage of this legislation. As our friend, Senator Leahy, and others have pointed out, there have been many areas of division in the Congress. The idea that we could all come together in support of this legislation at this time on an issue of such overwhelming importance and consequence, I think, is a very important message to the American people that those that have positions of responsibility understand

that the right to vote is the bedrock of our democracy and to all democracies, and we are going to do everything we can to preserve it.

I thank the Chair.

[The prepared statement of Senator Kennedy appears as a submission for the record.]

Chairman SPECTER. Thank you very much, Senator Kennedy.

Senator Cornyn, would you care to make an opening statement?

**STATEMENT OF HON. JOHN CORNYN, A U.S. SENATOR FROM  
THE STATE OF TEXAS**

Senator CORNYN. Thank you, Mr. Chairman. I do have a brief statement. Thank you, first of all, for holding this first in a series of hearings to explore the expiring provisions of the Voting Rights Act. As you have already noted, few issues are as fundamental to our system of democracy and the promise of equality inherent in our Nation's founding as voting rights, rightfully called by President Reagan the crown jewel of American liberties.

The Voting Rights Act was adopted at the height of the civil rights movement in 1965. On the day he signed the bill into law, President Lyndon Johnson, a former member of this body whose seat I am privileged to hold, referred to the Act's passage as a, quote, "triumph of freedom as huge as any victory that has ever been won on any battlefield."

President Johnson's words captured the atmosphere surrounding the Act's passage, a hard-fought victory at a tense time in the Nation's history. Indeed, it is no secret why the Voting Rights Act was necessary. Numerous jurisdictions throughout the United States had engaged in the intentional, systematic disenfranchisement of blacks and other minorities through the use of tests, taxes, intimidation and other oppressive measures.

In response, the Voting Rights Act permanently enshrined in law the long-unfulfilled promise of citizenship and democratic participation guaranteed by the 15th Amendment to the United States Constitution. It further enacted for a 5-year period provisions designed to subject certain jurisdictions to Federal oversight of their voting laws and procedures until the intent of the Act was realized.

I think it is significant to point to the fact that much progress has been made. Today, black voter registration rates are approaching, and in many areas have surpassed the rates of white voters. Hispanic voter registration is rapidly rising as well. In my State of Texas, in 2004, black voter registration was 68.4 percent, as compared to a national average of 64.4 percent. Hispanic voter registration was 41.5 percent, as compared to a national average of 34.5 percent.

With this marked progress as a backdrop, we are faced with determining whether certain provisions of the Act should be renewed, as they were in 1970, 1975 and 1982. As we proceed with the upcoming hearings listening to witnesses and studying the record, I hope we will seek a complete understanding of the strides made toward political empowerment and equal access to democratic participation throughout the Nation and craft our future national policy accordingly.

Thank you very much.

Chairman SPECTER. Thank you very much, Senator Cornyn. Your full statement will be made a part of the record, without objection.

[The prepared statement of Senator Cornyn appears as a submission for the record.]

Chairman SPECTER. We turn now to you, Chairman Sensenbrenner.

**STATEMENT OF HON. F. JAMES SENSENBRENNER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WISCONSIN**

Representative SENSENBRENNER. Thank you very much, Chairman Specter, Ranking Member Leahy, Senators Kennedy and Cornyn. I thank you for the opportunity to testify this afternoon. Ranking Member Conyers and I are here today to express bipartisan support for legislation to extend the Voting Rights Act to ensure that the right to vote continues to be protected to the full extent of Congress' constitutional authority.

As many of you know, my interest in the Voting Rights Act dates back some 25 years. In 1982, I was proud to help lead a bipartisan effort to reauthorize the temporary provisions of the Voting Rights Act for an additional 25 years. In addition to reauthorizing the Act, we made several necessary changes to Sections 2 and 4 to address the concerns of many interested parties. I believe that the 1982 amendments have been effective in further transforming our local, State and Federal election systems for the better.

Over the last 25 years, we have witnessed significant increases in minority registration and turn-out. We have also seen substantial changes in the make-up of local, State and Federal elected offices. Today, more and more minority citizens hold elective office in Congress, State legislatures, city councils and school boards, and our Nation has been enriched as a result.

Last summer, in recognizing the 40th anniversary of the Voting Rights Act, I, along with Ranking Member Conyers and Judiciary Committee member and Congressional Black Caucus Chair Mel Watt and our colleague civil rights leader John Lewis of Georgia, pledged our commitment to see the Voting Rights Act's temporary provisions reauthorized for an additional 25 years.

Since last fall, the House Judiciary Committee has examined the Voting Rights Act in great detail, with a particular focus on the provisions currently set to expire in 2007. I am here today to present this Committee with the results of our examination, which includes almost 8,000 pages of testimony that comprise 9 of the 10 hearing records compiled by the House Judiciary Committee.

Since October of last year, the House Subcommittee on the Constitution has held 10 hearings and received oral and written testimony from more than 39 witnesses, including supporters and opponents of reauthorization. The hearings examined the effectiveness of each of the expiring provisions in remedying discrimination, as well as their continued need over the next 25 years. In some cases, the Committee held multiple hearings on certain provisions to ensure that all of the relevant issues were fully examined.

I would ask the Committee to incorporate the hearing record compiled by the House into your record.

Chairman SPECTER. Without objection, it will be made a part of our record, perhaps the most voluminous unanimous consent request in the history of the Committee.

Representative SENSENBRENNER. Mr. Chairman, quality rather than quantity counts, and you will find there is quality in there, too.

Chairman SPECTER. We accept the representation of quality. We observe the quantity.

Representative SENSENBRENNER. Thank you.

In particular, the Committee examined the continued effect of Section 4(b)'s trigger formula and identifying those jurisdictions covered by the extraordinary remedies; the feasibility of the bail-out process, as demonstrated by the successful bail-out of eleven counties in the covered State of Virginia; the increased use and continued need for Section 5's pre-clearance requirements; the continued need for Federal observers in covered jurisdictions to protect minority voters; and the impact Section 203 has had on facilitating the participation of language-minority citizens in the political process.

The Committee has also carefully examined the impact certain Supreme Court decisions have had on Section 5's ability to protect minorities from discriminatory voting changes enacted by covered jurisdictions, particularly in State and Congressional redistricting initiatives.

In addition to the testimony received during the hearings, the Committee has received and incorporated into its hearing record written testimony from the Department of Justice, non-governmental organizations, and other interested citizens, including several comprehensive national and State reports. This information significantly strengthened the Committee's record by documenting discrimination in the electoral process, the temporary provisions' effectiveness in addressing discrimination, and the continued need for Federal oversight in covered jurisdictions over the next 25 years.

This comprehensive record established by the Committee strongly supports reauthorization of the VRA, and I believe this record will be vitally important in ensuring that the resulting legislation can withstand an almost certain constitutional challenge. The Supreme Court looked to similar records in upholding the use of these extraordinary measures on two separate occasions, first in 1965, and again in 1980.

It has been 40 years since Congress took the first steps to remedy our Nation's sad history of discrimination in voting. The Committee's record demonstrates that while progress has been made, the vestiges of discrimination are still present in certain parts of the country. As the record also reveals, Congress is clearly justified under Section 2 of the 15th Amendment in using all remedies at its disposal to ensure that the most fundamental right of citizenship, the right to vote, is protected for all citizens.

Thank you for your indulgence today, and happy reading.

[The prepared statement of Representative Sensenbrenner appears as a submission for the record.]

Chairman SPECTER. Thank you very much, Mr. Chairman.

Member Conyers.

**STATEMENT OF HON. JOHN CONYERS, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN**

Representative CONYERS. Thank you, Chairman Specter, and to our Ranking Member, Pat Leahy, and our dear friend, Senator Ted Kennedy. It is an honor for me to appear here today. You see, my congressional career goes back to 1965 and my service on the Judiciary Committee as the first African-American to hold that honored position has not been lost on me all these years.

So I am deeply sensitive to the fact that John Lewis just passed me a note observing that today is the birthday of the late Coretta Scott King, and so I see the significance of this moment, of this day, of the House and the Senate coming together to work as expeditiously as we can to continue the crown jewel of the civil rights laws in America. I also remember that it was in Atlanta that Senator Ted Kennedy spoke for the U.S. Senate at the memorial services of Coretta King and I was honored to make a presentation for the House of Representatives. So this is special.

When Martin King and Roy Wilkins and Whitney Young went back to President Johnson to ask for a voting rights bill, he told them that he had thought that he gotten as much as he could out of the legislative body here and that it might not be possible. But when he saw that Bloody Sunday, which went across the Nation on television, he, like the country, was shocked at the violence that was visited upon all of those folks there in a non-violent, peaceful march for voting rights, in which many others, including John Lewis, was a participant. He called back and said I want to get an effective and strong Voting Rights Act as quickly as we can through the Congress.

It is funny how these things come together, and I commend Jim Sensenbrenner, the Chairman of this Committee, because he was very effective in the 1982 extensions and has worked with us in a truly cooperative way. It is not by accident that we have John Lewis behind us, and Mel Watt, a member of the Judiciary Committee and, as well, Chairman of the congressional Black Caucus.

We have enjoyed, as this hearing demonstrates, unprecedented levels of bipartisan support in Congress in 1970, 1975 and 1982, and I believe that all of us together can move through the closing months of this 109th session to accomplish what all America, and indeed in some respects all the world is waiting to see, if we can get this through and also keep the measure as strong as it was when it was passed in 1965.

In 1965, of course, the civil rights era was in full bloom. In sit-ins and marches across the South, in response to massive resistance to the call for equal rights and voter rights, brave Americans of different races and religions risked their lives to stand up for political equality.

So today, as the Senate commences the process of reauthorizing the Act, its importance to opening the political process for all Americans is beyond doubt or challenge. Across the Nation, the number of people of color and minorities elected to Federal, State and local offices has increased tremendously in the last 40 years, further opening the political process.

It is not an overstatement to call the Voting Rights Act the keystone of our Nation's array of civil rights statutes. And against this

historical backdrop, we view our hearings and the larger reauthorization process as an opportunity to take stock of where we are and, if necessary, to make adjustments that will protect and restore the Act just as we have done in the past.

As Chairman Sensenbrenner has noted, we pay particular attention to the pre-clearance provisions of Section 5 and the language minority provisions of Section 203. However, we also focus on some less well-known examiner and observer provisions which are designed to ensure fair access to the polls.

Our inquiry broke down into two fundamental questions: Is there an adequate record of discrimination to justify reauthorization of the expiring provisions, and are the expiring provisions, as interpreted by the courts, still adequate to protect the rights of minority voters.

While there is so much to celebrate over the last 40 years, our record indicates that we have not yet reached the point where the special provisions of the Act should be allowed to lapse. As some might have you believe, efforts to suppress or dilute minority votes, I report to you sadly, are still all too common.

With respect to Section 5, covered jurisdictions, we found continuing patterns of discrimination in voting, as evidenced by adverse Section 2 findings, Section 5 objections, and withdrawals of Section 5 submissions after requests for more information from the Department of Justice itself.

Similarly, with respect to Section 203, we received substantial testimony from the advocacy community and the Department of Justice, supported by its litigation record, that language minorities remain the victims of discrimination in voting. Most importantly, our record indicates that substantial native-born populations and other citizens still need language assistance to cast an effective ballot.

In addition to examining whether there was continuing discrimination in voting, we also examined the impact that several Supreme Court decisions have had on Section 5's ability to protect the minority community in covered jurisdictions from discriminatory voting changes. This inquiry was important to ensure the continuing vitality of the Voting Rights Act.

Just as we found in 1982, after examining the negative impact of *Mobile v. Bolden* on Section 2, a straight reauthorization of the Act will not be sufficient to protect the rights of minority voters, given its evolution in the Court. Our examination focused on the impact of two Supreme Court cases, in particular, the *Bossier Parish* case, and the other case was *Georgia v. Ashcroft*. In another narrow majority, we had a discussion about whether or not we could have factors balance out the loss in minority voting power through so-called influence districts.

So against this historical backdrop, we want you to know that we think that the way that we have agreed to proceed—and I want to thank the Chairman of this Committee—it is very, very important that we work as closely together, as expeditiously as possible. And we trust that whatever is useful in our hearings that may be used by this distinguished Committee will be put to full use.

Our record with respect to this inquiry leaves us to confront the prospect that cases may severely limit the scope of the Act's non-

discrimination standards. And just as in 1982, we are presented with choices of whether to simply reauthorize the Act or to address the actions of the Court and restore the Act to the standard that was earlier intended by Congress.

The Voting Rights Act is one of the Nation's most important civil rights victories. It memorializes those who marched, struggled, and even died to secure the right to vote for all Americans. In the global circumstances in which we find ourselves today, we know that many on this planet are looking to see how effectively we can handle the responsibilities that are before both bodies.

We owe a deliberative and thoughtful process to those who have risked so much in the fight for equal rights. And while we must applaud the substantial progress that has been made in the area of voting rights, we must also continue our efforts to protect the rights of every American voter with the reauthorization and restoration of the expiring provisions of the Act.

The Voting Rights Act remains the crown jewel of our civil rights laws. We must extend the Act at full strength, and I am fully committed to do that. And I know that I speak for every Member on the House side of the Judiciary, and we know and trust that you, Mr. Chairman, and Senator Kennedy will do all in your power to move this very, very vital measure forward as expeditiously as you can.

I thank you for this opportunity today.

[The prepared statement of Representative Conyers appears as a submission for the record.]

Chairman SPECTER. Thank you very much, Ranking Member Conyers.

We share the sentiments which you two distinguished legislators have articulated. I have no questions. I believe the questions are all answered by the qualitative and quantitative introduction of evidence today which has been made a part of our record.

I like the qualitative and quantitative record because we have to be sure that it passes muster. We do not know what the Supreme Court will do. When they declared portions of the violence against women legislation unconstitutional because of an insufficient record, which was voluminous, a mountain of data identified by Justice Souter in dissent, they said we had a defective, quote, "method of reasoning," which is incredible and insulting, candidly.

Then when they declared the Americans With Disabilities Act unconstitutional in an employment discrimination case in *Garrett v. Alabama*, five to four, and then, five to four, the same record upheld access in *Tennessee v. Lane* under a standard of proportion and congruent, plucked out of thin air, it puts us on notice that we had better have the kind of a record that you have produced here today. We thank you.

Senator Kennedy, would you care to comment?

Senator KENNEDY. Thank you, Mr. Chairman. I will reserve any questions until our own hearings. I am very grateful for the opportunity to hear our two distinguished colleagues and understand the depth of their pursuit on this issue. I agree we have an important opportunity to take very essential and necessary action, and hopefully we can do that expeditiously.

We thank you both for being here. I thank you, Mr. Chairman.

Chairman SPECTER. We are committed, as we talked about earlier Chairman Sensenbrenner and Ranking Member Conyers, to join with you on joint introduction, bicameral introduction, and to meet the timetables which we have discussed.

Senator Feingold, would you care to comment?

**STATEMENT OF HON. RUSSELL D. FEINGOLD, A U.S. SENATOR  
FROM THE STATE OF WISCONSIN**

Senator FEINGOLD. Yes, Mr. Chairman, briefly. I am pleased to be here for this first hearing on the renewal of the Voting Rights Act. I would first like to welcome Chairman Sensenbrenner and Ranking Member Conyers, and thank them for being here.

Chairman Sensenbrenner, your leadership on this issue has been heartening. I understand you came to this issue in 1982 as something of a skeptic, and yet you approached the issue with an open mind and ultimately came away with the impression that, as you have said, the ingenuity of the human mind is limitless when it comes to devising ways to rig elections or to favor certain candidates.

In light of the evidence presented during that reauthorization process, you worked tirelessly to ensure the Act's reauthorization. We were fortunate to have you as a champion of the Act at that time and we are fortunate to have you here again today as Chairman.

I also welcome, of course, my colleague and friend, Representative Conyers. Few in this Congress have done more to advance civil rights than Mr. Conyers. He and I have worked closely on many legislative issues, including racial profiling, bankruptcy, and the integrity of our electoral process. I am, of course, not only pleased that you are here today, but the other distinguished colleagues from the House who are here with you today, underscoring the great importance of this.

The Voting Rights Act has been hailed as the most important piece of Federal legislation in our Nation's history, not just the most important piece of civil rights legislation, but the most important piece of legislation ever passed. This may well be true. It is from our political rights, our rights of citizenship, that all other freedoms flow. Without a meaningful chance to vote, there can be no equality before the law, no equal access to justice, to equal opportunity in the workplace or to share in the burdens and benefits of citizenship.

In 1965, the year that the Voting Rights Act first passed, our Nation was failing to fulfill one of its most fundamental promises—representation for all. At that time, African-Americans were excluded from almost all public offices in many areas of the South, and discriminatory election practices at the State level were having a devastating effect on the ability of minorities to exercise their right to vote.

In response to the horrific events in Selma, Alabama, and after years of effort in Congress and around the country, on August 6, 1965, the Voting Rights Act became law. Certainly, much has changed since then. The Voting Rights Act has allowed millions of minority voters to exercise their constitutional rights to participate fully in elections. There are a record number of African-American

and Hispanic members serving in Congress today, and the number of minorities serving in other levels of government has increased dramatically as well.

Furthermore, the Act has been amended to cover non-English-speaking minorities such as Latinos, Asian-Americans, Native Americans, Alaskan Natives and other minority groups, and has been used to examine and challenge new election formats that dilute minority votes.

Unfortunately, though, obviously, as has been pointed out, we have much more work to do. As the record that our witnesses present helps to illuminate, in each election cycle many Americans are still disenfranchised by discriminatory redistricting plans, voter intimidation tactics, long lines at polling places, inadequate numbers of voting machines, and lifetime restrictions on voting rights for ex-felons.

In 2007, key elements of the Voting Rights Act, including the Federal pre-clearance requirement, provisions related to Federal examiners and observers, and certain language assistance programs are due to expire. Voters should not be put in the position of having to re-fight the battles won in the civil rights struggle. We should be building on the success of the Voting Rights Act, not turning back the clock in the face of ongoing threats to our election system.

I hope today's hearing will be the first step in that process in the Senate, and I look forward to working with supporters of the Voting Rights Act on both sides of the aisle to reauthorize this Act this year and make sure we establish the legislative record needed to support it in court.

I want to, of course, thank again the Chairman for holding this important hearing and thank our witnesses from across the Capitol for their work on this issue and for joining us today.

Thank you, Mr. Chairman.

Chairman SPECTER. Thank you, Senator Feingold. Thank you, Senator Leahy. Thank you, Senator Kennedy. And most of all, thank you, Chairman Sensenbrenner, and thank you, Representative Conyers.

That concludes our hearing.

[Whereupon, at 3:18 p.m., the Committee was adjourned.]

[Submissions for the record follow.]

## SUBMISSIONS FOR THE RECORD

Statement: Reauthorization of Voting Rights Act  
Rep. John Conyers, Jr.  
Ranking Member House Committee on the Judiciary  
April 27, 2006

Chairman Specter, Ranking Member Leahy and distinguished members of the Committee, I am pleased to join you today, along with my colleague Chairman Sensenbrenner, in a spirit of bicameral and bipartisan cooperation as we move to reauthorize the historic Voting Rights Act of 1965.

As this hearing demonstrates, the Voting Rights Act has enjoyed unprecedented levels of bipartisan support in Congress, with extensions of the Act in 1970, '75 and '82. I particularly want to commend Chairman Sensenbrenner on his strong commitment to the Act, which was equally evident in the 1982 reauthorization, and is evidenced most recently by his presentation to the NAACP and our robust schedule of 10 oversight hearings. I believe that his leadership has been critical to the legislative success of the Act and a testament to the fact that civil rights need not be a partisan issue.

When the Voting Rights Act passed in 1965, the civil rights era was in full bloom, with sit-ins and marches across the South in response to the massive resistance to the call for equal rights. Brave Americans of different races, ethnicities, and religions risked their lives to stand up for political equality.

The pursuit of equal voting rights was most dramatically displayed on the Edmund Pettus Bridge in Selma, Alabama on March 7, 1965, a day that would come to be known as "Bloody Sunday." On this day, nonviolent civil rights marchers, like our colleague John Lewis, were beaten, hit, kicked, spit on, brutalized, and demeaned.

The news media brought home to all Americans the horror and violence that propped the system of segregation, forcing us to a decision point about our nation's democratic ideals. Without sacrifice

by countless individuals in Selma and across the South, the struggle for equality could not have been won nor this legislation passed by Congress.

Eight days after Bloody Sunday, President Lyndon B. Johnson called for a comprehensive and effective voting rights bill. He would sign that bill into law on August 6th and the Voting Rights Act would come to stand as a tribute to the countless Americans who fought for voting rights for all Americans.

Today, as the Senate commences the process of reauthorizing the Act, its importance to opening the political process to all Americans is beyond doubt or challenge. I was one of a handful of minority Members of Congress in 1965 when we passed this landmark legislation: six (6) African-Americans, five (5) Latinos, and four (4) Asian-Americans. As a result of the success of the Act, we can now count 43 African-Americans, 29 Latinos, 8 Asian-Americans, and 1 Native American in the U.S. House and Senate. And the federal government itself is merely the tip of the iceberg.

Across the nation, the number of people of color elected to federal, state, and local offices has increased tremendously in the last forty years, opening the political process to every American. It is not an overstatement to call the Voting Rights Act the keystone of our nation's array of civil rights statutes.

Against this historical backdrop, we viewed our hearings and the larger reauthorization process as an opportunity to take stock of where we are and, if necessary, to make adjustments that will protect and restore the Act, just as we have done in the past. As the Chairman has noted in his testimony, we paid particular attention to the preclearance provisions of Section 5 and the language minority provisions of Section 203. However, we also focused on the less well known examiner and observer provisions which are designed to ensure fair access to the polls.

Our inquiry broke down into two fundamental questions: 1) Is there an adequate record of discrimination to justify the reauthorization of the expiring provisions ? and 2) Are the expiring provisions, as interpreted by the courts, still adequate to protect the rights of minority voters ?

While there is much to celebrate over the last 40 years, our record indicates that we have not yet reached the point where the special provisions of the Act should be allowed to lapse, as some might have you believe. **Efforts to suppress or dilute minority votes are still all too common.**

With respect to Section 5 covered jurisdictions, we found continuing patterns of discrimination in voting, as evidenced by adverse Section 2 findings, Section 5 objections, and withdrawals of Section 5 submissions after requests for more information from the Department of Justice.

Similarly, with respect to the Section 203, we received substantial testimony from the advocacy community and the Department of Justice, supported by its litigation record, that language minorities remain the victims of discrimination in voting. Most importantly, our record indicates that substantial native-born populations and other citizens still need language assistance to cast an effective ballot.

These threshold factual findings are essential to ensuring that a reauthorized Voting Rights Act will survive an almost certain challenge to its constitutionality. I must emphasize that the record we present to you today is one of the most complete that I have seen for any piece of legislation, with testimony from almost 40 witness, national reports, state specific reports and investigations as to the effectiveness of specific statutory provision by government and academic experts. Should it choose to review this legislative history, as it has done in the past, the Supreme Court should find this record evidence of a careful inquiry that supports the guarantees of equal voting rights which are enshrined in the Constitution.

In addition to examining whether there was continuing discrimination in voting, we also examined the impact that several Supreme Court decisions have had on Section 5's ability to protect the minority community in covered jurisdictions from discriminatory voting changes. This inquiry was important to ensure the continuing vitality of the Voting Rights Act. Just as we found

in 1982 after examining the negative impact of *Mobile v. Bolden* on Section 2, a straight reauthorization of the Act will not be sufficient to protect the rights of minority voters, given its evolution in the courts.

Our examination focused on the impact of two Supreme Court cases and their effects on the scope of Section 5. In the first case, *Reno v. Bossier Parish Sch. Bd.* 528 U.S. 320 (2000), a narrow majority of the Supreme Court articulated a new standard for the Section 5 preclearance provision of the Act. Under this interpretation of the statute, the Justice Department cannot block an intentionally discriminatory voting change, unless it finds that the jurisdiction acted with the “retrogressive purpose” of making things worse than they already were for minority voters.

In this case, because the school board in *Bossier* had no majority black districts before 1990, its intentional enactment of a plan preserving the all-white school board was not held to violate Section 5 – the plan would not be worse than zero seats. The Court held that the Board’s discriminatory purpose was not an adequate basis for an objection, no matter how blatant the evidence that the plan was motivated by racial discrimination. The case, I believe, improperly reversed over 34 years of law and practice, dating back to the 1965 enactment of the Voting Rights Act, under which voting changes with a racially discriminatory purpose had “no legitimacy at all . . . under the statute.” *City of Richmond v. United States*, 422 U.S. 358, 378 (1975).

In the second case, *Georgia v. Ashcroft*, 539 U.S. 461 (2003), another narrow majority of the Supreme Court held that plans that reduce the ability of minority voters to elect candidates of choice could still be approved under Section 5 as long as the Attorney General or a court believed that other factors somehow balance out the loss in minority voting power – so-called influence districts. Our witnesses indicated that this case introduced a new and complex legal standard to Section 5. Taken to an extreme, this opinion could result in the dismantling of majority-minority opportunity districts. At minimum, the opinion has introduced a standard that may prove difficult to administer for both the Justice Department and covered jurisdictions.

Our record with respect to this inquiry leaves us to confront the prospect that these cases may severely limit the scope of the Act's nondiscrimination standards. Just as in 1982, today we are presented with the choice of whether to simply reauthorize the Act or to also address the actions of the Court and restore the Act to the standard that was earlier intended by Congress.

I believe that we made the better choice in 1982 when we amended Section 2 and restored the pre-Bolden standard. I believe that it is not enough for Members of Congress or the Administration to say that they support an extension of the present Voting Rights Act. If we really supports voting rights, then we must support restoring the Act to its original strength.

The Voting Rights Act is one of the nation's most important civil rights victories and memorializes those who marched, struggled, and even died to secure the right to vote for all Americans. We owe a deliberative and thoughtful process to those who risked so much in the fight for equal rights. While we must applaud the substantial progress which has been made in the area of voting rights, we must also continue our efforts to protect the rights of every American voter with the reauthorization and restoration of the expiring provision of the Act. The Voting Rights Act remains the "Crown Jewel" of our civil rights laws. We must extend the Act at full strength, and I am fully committed to do just that.

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FOR IMMEDIATE RELEASE  
April 27, 2006

## THE TEMPORARY PROVISIONS OF THE VOTING RIGHTS ACT

### *Hearing statement of U.S. Senator John Cornyn (R-Texas)*

WASHINGTON—*U.S. Sen. John Cornyn (R-Texas), a member of the Senate Judiciary Committee, submitted the following statement during Thursday's hearing to examine the Voting Rights Act:*

“Mr. Chairman, thank you for holding the first in a series of hearings to explore the expiring provisions of the Voting Rights Act.

“Few issues are as fundamental to our system of democracy and the promise of equality inherent in our nation’s founding as voting rights—rights Ronald Reagan rightfully referred to as ‘the crown jewel of American liberties.’

“The Voting Rights Act was adopted at the height of the civil rights movement in 1965. On the day he signed the bill into law, President Lyndon Johnson—a former member of this body who sat in the seat I am privileged to hold—referred to the Act’s passage as ‘a triumph for freedom as huge as any victory that has ever been won on any battlefield.’

“President Johnson’s words captured the atmosphere surrounding the Act’s passage—a hard-fought victory at a tense time in history. Indeed, it is no secret why the Voting Rights Act was necessary. Numerous jurisdictions throughout the United States had engaged in the intentional, systematic disenfranchisement of blacks and other minorities through the use of tests, taxes, intimidation and other oppressive measures.

“In response, the Voting Rights Act permanently enshrined in law the long-unfulfilled promise of citizenship and democratic participation as guaranteed by the Fifteenth Amendment to the U.S. Constitution. It further enacted, for a temporary 5-year period, provisions designed to subject certain jurisdictions to federal oversight of their voting laws and procedures until the intent of the Act was realized.

“And much progress has been made. Today, black voter registration rates are approaching—and, in many areas, have surpassed—the rates of white voters. Hispanic voter registration is rapidly rising as well. In my home state of Texas in 2004, black voter registration was 68.4 percent, as compared to a national average of 64.4 percent and Hispanic voter registration was 41.5 percent as compared to a national average of 34.3 percent.

“With this marked progress as a backdrop, we are faced with determining whether certain provisions of the Act should be renewed, as they were in 1970, 1975 and 1982. As we proceed with upcoming hearings – listening to witnesses and studying the record—I hope we will seek a complete understanding of the strides made toward political empowerment and equal access to democratic participation throughout the nation – and craft our future national policy accordingly.”

**For Immediate Release**  
Contact: Zach Lowe - (202) 224-8567

**Remarks of U.S. Senator Russ Feingold**  
***On the Renewal of the Voting Rights Act***

**May 3, 2006**

Thank you, Mr. Chairman. I am pleased to be here today for this first hearing on the renewal of the Voting Rights Act.

First, I'd like to welcome Chairman Sensenbrenner and Ranking Member Conyers and thank them for being here. Chairman Sensenbrenner, your leadership on this issue has been heartening. You came to this issue in 1982 admittedly as a skeptic. Yet you approached the issue with an open mind, and ultimately came away with the impression that, as you have said, "the ingenuity of the human mind is limitless when it comes to devising ways to rig elections or to favor certain candidates." In light of the evidence presented during that reauthorization process, you worked tirelessly to ensure the Act's reauthorization. We were fortunate to have you as a champion of the Act at that time, and we are fortunate to have you here again today as Chairman.

I also welcome my colleague and friend, Representative Conyers. Few in this Congress have done more to advance civil rights than Mr. Conyers. He and I have worked closely on many legislative issues, including racial profiling, bankruptcy, and the integrity of our electoral process. I'm very glad you could be with us here today.

The Voting Rights Act has been hailed as the most important piece of federal legislation in our nation's history. Not just the most important piece of civil rights legislation, but the most important piece of legislation ever passed. This may well be true: it is from our political rights, our rights of citizenship, that all other freedoms flow. Without a meaningful chance to vote, there can be no equality before the law, no equal access to justice, no equal opportunity in the workplace or to share in the benefits and burdens of citizenship.

In 1965, the year that the Voting Rights Act first passed, our nation was failing to fulfill one of its most fundamental promises: representation for all. At that time, African Americans were excluded from almost all public offices in many areas of the South, and discriminatory election practices at the state level were having a devastating effect on the ability of minorities to exercise their right to vote. In response to the horrific events in Selma, Alabama and after years of effort in Congress and around the country, on August 6, 1965, the Voting Rights Act became law.

Certainly, much has changed since then. The Voting Rights Act has allowed millions of minority voters to exercise their constitutional rights to participate fully in elections. There are a record number of African American and Hispanic members serving in Congress today, and the number of minorities serving in other levels of government has increased dramatically as well. Furthermore, the Act has been amended to cover non-English speaking minorities such as Latinos, Asian Americans and Native Americans, Alaskan

Natives, and other minority groups, and has been used to examine and challenge new election formats that dilute minority votes.

Unfortunately, we have much more work to do. As the record that our witnesses present helps to illuminate, in each election cycle, many Americans are still disenfranchised by discriminatory redistricting plans, voter intimidation tactics, long lines at polling places, inadequate numbers of voting machines, and lifetime restrictions on voting rights for ex-felons. In 2007, key elements of the Voting Rights Act, including the federal pre-clearance requirement, provisions related to federal examiners and observers, and certain language assistance provisions, are due to expire.

Voters should not be put in the position of having to refight the battles won in the civil rights struggle. We should be building on the success of the Voting Rights Act, not turning back the clock in the face of ongoing threats to our election system. I hope today's hearing will be the first step in that process in the Senate, and I look forward to working with supporters of the Voting Rights Act on both sides of the aisle to reauthorize the Act this year and make sure we establish the legislative record needed to support it in court. I want to thank you again, Mr. Chairman, for holding this important hearing, and thank our witnesses from across the Capitol for their work on this issue and for joining us today.

*from the office of*  
**Senator Edward M. Kennedy**  
*of Massachusetts*

FOR IMMEDIATE RELEASE  
April 27, 2006

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STATEMENT BY SENATOR KENNEDY ON THE VOTING RIGHTS ACT  
REAUTHORIZATION  
(As prepared for delivery)

It's an honor to have the Chairman and Ranking Member of the House Judiciary Committee present today for this initial hearing on reauthorizing the Voting Rights Act. I join my colleagues in welcoming you to the Committee. Your presence demonstrates a bipartisan recognition of the vital importance of this issue to our nation. Both of you testified during the Senate's reauthorization hearings in 1982, to the great benefit of the Committee, and we're privileged to have your expertise again, as we begin reviewing the Act's provisions that are set to expire in 2007.

I also commend our Chairman and Ranking Member of the Senate Committee for calling this first in a series of hearings on the Voting Rights Act.

The Act is one of the most important and effective civil rights laws that Congress has ever passed. It protects one of our most precious rights. Martin Luther King called it, "civil right number one" – the right to vote and have that vote fully and fairly counted, regardless of color, ethnic background, or fluency in English – so that discrimination and its bitter legacy do not close the polls to any citizen.

One of the most important struggles of the twentieth century was the struggle to ensure the right to vote for every American, regardless of race, national origin, or proficiency in English. For most of the nation's history, the right to vote was shamefully denied to large numbers of our population because of the color of their skin. Many sung and unsung heroes of the civil rights movement sacrificed their security, their livelihoods, and even their lives, so that every American would have the right to vote. Although the right to vote, regardless of color, is clearly granted in the Fourteenth and Fifteenth Amendments of the Constitution, it took almost 100 years to give it real protection under our laws. Congress finally moved to correct this national wrong in 1965, when we passed the Voting Rights Act.

The Act's temporary provisions have been vital to its success -- requiring certain jurisdictions with a history of discrimination to obtain advance clearance for voting

changes in their laws, providing needed language assistance to citizens whose proficiency in English is too limited to allow them to vote with confidence, and sending federal personnel into the field to monitor elections in areas where voting discrimination is likely.

I've had the opportunity to participate in the Act's original passage and each of the later renewals of the Act. The year after its passage, I had the privilege of addressing the Southern Christian Leadership Conference in Mississippi at the invitation of Dr. King. When he and Coretta Scott King met me at the airport, we drove back along a road littered with hate leaflets and two-inch nails, intended no doubt, as a threat to the Kings.

That trip was significant not for these attempts at intimidation, but for the enthusiasm every one of the SCLC delegates showed for the right to vote – newly protected by the Voting Rights Act – and to participate fully in our American democracy.

There are no words to describe the importance of the step we took in passing the Act to see that America finally lived up to its ideals of democracy and justice for all. As we consider reauthorizing key portions of that law, we must remember how far we have come. We must never go back to those dark days.

The question we face now is whether the Act's temporary provisions are still needed today. Although we have made great progress since 1965, we're still far from an America in which these safeguards are no longer necessary.

Section 5 in particular serves as an important protection against backsliding by jurisdictions with a history of particularly severe discrimination in voting. This Section prevents these jurisdictions from changing voting rules without first showing that the proposed changes have neither a discriminatory purpose nor effect. Thus, Section 5 has a key role in preventing discriminatory practices from taking effect before an election is held and damage has been done. The Supreme Court stated in upholding Section 5's constitutionality in South Carolina v. Katzenbach, "After enduring nearly a century of systematic resistance to the Fifteenth Amendment, Congress might well decide to shift the advantage of time and inertia from the perpetrators of the evil to its victims."

Discrimination clearly continues, despite the gains that Section 5 has made possible. Although Section 5 has been in effect since 1965, that time is brief compared to the long history of the problem.

Discrimination that was once blatant has moved into the shadows, but it still remains. We've learned through painful recent experience that those bent on keeping power through discrimination will adapt their tactics in response to changes in the law. As a result, our laws must be as flexible as those who are attempting to circumvent them.

I look forward to the testimony of our distinguished witnesses and to learning more about the evidence the House Judiciary Committee has considered in its extensive hearings on the issue.

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# U.S. SENATOR PATRICK LEAHY

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VERMONT

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**STATEMENT OF SENATOR PATRICK LEAHY,  
RANKING MEMBER, COMMITTEE ON THE JUDICIARY  
OPENING STATEMENT ON THE REAUTHORIZATION OF  
THE TEMPORARY PROVISIONS  
OF THE VOTING RIGHTS ACT  
APRIL 27, 2006**

I extend a warm welcome today to our distinguished witnesses, the House Judiciary Chairman and Ranking Member, and we thank them for appearing before this Committee as we begin our Senate hearings on the Voting Rights Act. I also want to express my appreciation to the rest of the House Judiciary Committee, especially Representatives Nadler, Chabot and Watt, for their hard work on 10 hearings on the effectiveness and continuing need for the expiring provisions of the Voting Rights Act.

There are few things as critical to the fabric of our nation, and to American citizenship, as voting. The right to vote and to have your vote count is a foundational right, like our First Amendment rights, because it secures the effectiveness of other protections. The legitimacy of our government is dependent on the access all Americans have to the political process.

As we begin Senate hearings on the Voting Rights Act, we are reminded of the historic struggle for civil rights led by such American heroes as Dr. Martin Luther King, Jr. and Coretta Scott King. We remember the courageous act of Rosa Parks, who refused to be treated as a second-class citizen. And we recall how on March 7, 1965, in Selma, Alabama, John Lewis and his fellow civil rights marchers fought for their right to vote but were attacked brutally by state troopers on the Edmund Pettus Bridge.

The events of that day, now known as "Bloody Sunday," were captured in news photos and on television, and those powerful images marked a crucial turning point in securing the right to vote for all Americans. A few days after the violence of Bloody Sunday, President Lyndon Johnson outlined the proposed Voting Rights Act of 1965, before a joint session of Congress. Within months, Congress passed it so that the Constitution's guarantees of equal access to the electoral process, regardless of race, would not be undermined by discriminatory practices.

The pervasive discriminatory tactics that led to the original Voting Rights Act were deeply rooted. As a nation, this fight dated back almost 100 years, to the ratification of the 15<sup>th</sup> Amendment in 1870, the last of the post-Civil War Reconstruction amendments. It took implementation of the Voting Rights Act of 1965 for people of all races in many

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parts of our country to gain the effective exercise of rights guaranteed 95 years earlier by the 15<sup>th</sup> Amendment.

Congress has reauthorized and revitalized the Act four times, each time with overwhelmingly bipartisan support. I am particularly pleased that today we are repeating the bicameral and bipartisan process of the 1982 reauthorization, a process in which the Chairman and I were both Members of this Committee, along with Senators Kennedy, Biden, Hatch and Grassley. Under the chairmanship of Senator Strom Thurmond, reauthorization was reported by this Committee and passed both houses of Congress.

#### **The Expiring Provisions**

The enactment of the Voting Rights Act in 1965 transformed the landscape of political inclusion. As people are able to register, vote, and elect candidates of their choice, their interests and rights get attention. Prior to the Act, minorities of all races faced major barriers to participation in the political process, through the use of such devices as poll taxes, exclusionary primaries, intimidation by voting officials, language barriers, and systematic vote dilution. We have made significant progress toward a more inclusive democracy.

Still, I fear that if we fail to reauthorize the Act's expiring provisions, in particular Sections 5 and 203, our country is likely to backslide. Unfortunately, the work of the expiring provisions to remedy the denial of voting rights in many parts of the country remains incomplete. We must give these provisions time to solidify the gains that we have been making as a nation.

The record compiled in the House is replete with modern examples of discriminatory tactics employed since the Act was last reauthorized in jurisdictions covered by the temporary provisions. The state reports prepared by civil rights experts and practitioners set forth in great detail evidence of recurring problems in those jurisdictions. I look forward to the completion of the remaining state reports and their inclusion in the Senate hearing record. I also look forward to receiving the testimony of more witnesses and considering additional evidence on the need for continuation of the expiring provisions.

#### **Protection of Language Minorities**

As part of the Voting Rights Act reauthorization in 1975, Congress added Section 203, which requires bilingual voting assistance for certain language minority groups. It has been a key factor expanding the inclusiveness of democracy and has led to extraordinary gains in representation and participation made by Asian-American and Hispanic-American populations.

In this debate, we are talking about American citizens. It is imperative that all citizens be able to exercise their rights as citizens, particularly a right as fundamental as the right to

vote. Renewing the language provisions of the Voting Rights Act that are expiring will help make that a reality.

**Conclusion**

The Voting Rights Act of 1965 helped to usher the country out of a history of discrimination into the greater inclusion of all Americans in the decisions about our nation's future. Our democracy and our nation are better and richer for it. I urge this Committee to build on the work done in the House of Representatives. Congress should extend the expiring provisions this year so that we can eliminate recurring discrimination and make sure that the gains we have made are not lost. This is about making our democracy reflect the will of all of the American people.

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**Statement of Chairman Sensenbrenner  
Before the Senate Judiciary Committee  
on Reauthorization of the Voting Rights Act**

**April 27, 2006**

Chairman Specter, Ranking Member Leahy, and other distinguished Members of the Committee, thank you for the opportunity to testify this afternoon. Ranking Members Conyers and I are here today to express bipartisan support for legislation to extend the Voting Rights Act, to ensure that the right to vote continues to be protected to the full extent of Congress' constitutional authority

As many of you know, my interest in the Voting Rights Act dates back some 25 years. In 1982, I was proud to help lead a bipartisan effort to reauthorize the temporary provisions of the Voting Rights Act for an additional 25 years. In addition to reauthorizing the Act, we made several necessary changes to Section 2 and Section 4 to address the concerns of many interested parties. I believe the 1982 amendments have been effective in further transforming our local, State, and Federal election systems for the better.

Over the last 25 years, we've witnessed significant increases in minority voter registration and turnout. We've also seen substantial changes in the makeup of local, State, and Federal elected offices. Today, more and more minority citizens hold elected office in Congress, state legislatures, city councils, and school boards, and our nation has been enriched as a result.

Last summer, in recognizing the 40th anniversary of the Voting Rights Act, I, along with Ranking Member Conyers and Judiciary Committee Member and Congressional Black Caucus Chairman Mel Watt, pledged our commitment to see the Voting Rights Act's temporary provisions reauthorized for an additional 25 years. Since last fall, the House Judiciary Committee has examined the Voting Rights Act in great detail, with a particular focus on the provisions currently set to expire in 2007. I am here today to present this Committee with the results of our examination, which includes almost 8,000 pages of testimony that comprise nine of the ten hearing records compiled by the House Judiciary Committee.

Since October of last year, the House Subcommittee on the Constitution has held ten hearings and received oral and written testimony from more than 39 witnesses, including supporters and opponents of reauthorization. The hearings examined the effectiveness of each of the expiring provisions in remedying discrimination and protecting minority voters over the last 25 years, as well as their continued need over the next 25 years. In some cases, the Committee held multiple hearings on certain provisions to ensure that all of the relevant issues were fully examined.

In particular, the Committee examined the continued effectiveness of Section 4(b)'s trigger formula in identifying those jurisdictions covered by the extraordinary remedies; the feasibility of the bailout process, as demonstrated by the successful bailout of eleven counties in the covered State of Virginia; the increased use and continued need for Section 5's preclearance requirements; the continued need for Federal observers in covered jurisdictions to protect minority voters; and the impact Section 203 has had on facilitating the participation of language minority citizens in the political process.

The Committee also carefully examined the impact certain Supreme Court decisions have had on Section 5's ability to protect minorities from discriminatory voting changes enacted by covered jurisdictions, particularly in state and Congressional redistricting initiatives.

In addition to the testimony received during the hearings, the Committee received and incorporated into its hearing record written testimony from the Department of Justice, non-governmental organizations, and other interested citizens, including several comprehensive national and state reports. This information significantly strengthened the Committee's record by documenting discrimination in the electoral process, the temporary provisions' effectiveness in addressing discrimination, and the continued need for Federal oversight in covered jurisdictions over the next 25 years.

The comprehensive record established by the Committee strongly supports reauthorization of the VRA, and I believe this record will be vitally important in ensuring that the resulting legislation can withstand an almost certain constitutional challenge. The Supreme Court looked to similar records in upholding the use of these extraordinary measures on two separate occasions, first in 1965 and again in 1980.

It has been 40 years since Congress first took steps to remedy our nation's sad history of discrimination in voting. The Committee's record demonstrates that, while progress has been made, vestiges of discrimination are still present in certain parts of the country. As this record also reveals, Congress is clearly justified under Section 2 of the 15<sup>th</sup> Amendment in using all remedies at its disposal to ensure that the most fundamental right of citizenship – the right to vote – is protected for all citizens.

## **LIST OF VOTING RIGHTS REPORTS**

Voting Rights Litigation, 1982-2006: A Report of the Voting Rights Project of the American Civil Liberties Union

Voting Rights in Key States 1982-2006: A Report of RenewtheVRA.org, Volumes I & II, March 2006

National Commission on the Voting Rights: Protecting Minority Voters, February 2006

Highlights of Hearings of the National Commission on the Voting Rights Act 2005, a Supplement to: Protecting Minority Voters, February 2006

### **Committee on the Judiciary, House of Representatives, Subcommittee on the Constitution Hearings**

#### Voting Rights Act:

An Examination of the Scope and Criteria for Coverage under the Special Provisions of the Act, October 20, 2005, Serial No. 109-68, Jacket No. 24-034

Section 5 - Preclearance Standards, November 1, 2005, Serial No. 109-69, Jacket No. 24-283

To Examine the Impact and Effectiveness of the Voting Rights Act, October 18, 2005, Serial No. 109-70, Jacket No. 24-033

The Judicial Evolution of the Retrogression Standard, November 9, 2005, Serial No. 109-74, Jacket No. 24-504

The Continuing Need for Section 5, October 25, 2005, Serial No. 109-75, Jacket 24-121

Sections 6 and 8 – The Federal Examiner and Observer Program, November 15, 2005, Serial No. 109-77, Jacket No. 24-606

Section 203 – Bilingual Election Requirements (Part I), Serial No. 109-83, Jacket No. 24-503

Section 203 – Bilingual Election Requirements (Part II), November 9, and November 10, 2005, Serial No. 109-78, Jacket No. 24-505

Section 5 of the Act – History, Scope, and Purpose, Volume I & II, October 25, 2005, Serial No. 109-79, Jacket No. 24-120

